

# HOUSE BILL REPORT

## ESB 6166

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**As Reported by House Committee On:**  
Technology & Economic Development  
General Government & Information Technology

**Title:** An act relating to allowing incremental electricity produced as a result of certain capital investment projects to qualify as an eligible renewable resource under the energy independence act.

**Brief Description:** Allowing incremental electricity produced as a result of certain capital investment projects to qualify as an eligible renewable resource under the energy independence act.

**Sponsors:** Senators Takko, Rivers, Ericksen, Chase, Roach, Becker, Sheldon and Benton.

**Brief History:**

**Committee Activity:**

Technology & Economic Development: 2/18/16, 2/24/16 [DP];  
General Government & Information Technology: 2/29/16 [DP].

**Brief Summary of Engrossed Bill**

- Amends the definition of an "eligible renewable resource" to include incremental electricity produced as a result of a capital investment project completed after March 31, 1999, at a qualified biomass energy facility that commenced operation before March 31, 1999.
- Authorizes the Department of Commerce to adopt rules concerning the development of a methodology for calculating baseline levels of electricity generation for generation facilities that commenced operation before March 31, 1999.

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**HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT**

**Majority Report:** Do pass. Signed by 12 members: Representatives Morris, Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Fey, Harmsworth, Magendanz, Nealey, Rossetti, Santos, Wylie and Young.

**Minority Report:** Do not pass. Signed by 1 member: Representative Hudgins.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Nikkole Hughes (786-7156).

## **Background:**

### The Energy Independence Act.

The Energy Independence Act (EIA) was approved by voters in 2006. The EIA requires an electric utility with 25,000 or more customers to meet targets for energy conservation and to meet a certain percent of its annual load with eligible renewable resources. Utilities that must comply with the EIA are called qualifying utilities.

### Eligible Renewable Resource Targets and Compliance Dates.

Each qualifying utility must use eligible renewable resources or acquire equivalent renewable energy credits (RECs), or a combination of both, to meet the following annual targets:

- at least 3 percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;
- at least 9 percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and
- at least 15 percent of its load by January 1, 2020, and each year thereafter.

### Eligible Renewable Resources.

For a renewable resource to be considered an eligible renewable resource under the EIA, the electricity must be produced from:

- a generation facility powered by a renewable resource other than freshwater that commenced operation after March 31, 1999, where the facility is located in the Pacific Northwest or the electricity is delivered into the state on a real-time basis;
- certain incremental hydroelectricity due to efficiency improvements;
- hydroelectricity from a project completed after March 31, 1999, where the facility is located in irrigation pipes, irrigation canals, municipal water pipes, and wastewater pipes;
- qualified biomass energy; or
- a generation facility owned or under contract by a qualifying utility, where the facility is located outside the Pacific Northwest.

The only electricity from a generation facility that commenced operation before March 31, 1999, that is considered an eligible renewable resource is qualified biomass energy.

"Qualified biomass energy" means electricity produced from a biomass energy facility that, in addition to having commenced operation before March 31, 1999:

- contributes to a qualifying utility's load; and
- is owned by either the qualifying utility or an industrial facility that is directly interconnected with electricity facilities that are owned by the qualifying utility.

### Renewable Energy Credits.

A REC is a tradable certificate of proof, verified by the Western Renewable Energy Generation Information System (WREGIS), of at least one megawatt-hour of an eligible renewable resource, where the generation facility is not powered by freshwater. Under the EIA, a REC represents all the nonpower attributes associated with the power. Renewable energy credits can be bought and sold in the marketplace to comply with annual renewable energy targets, and they may be used during the year they are acquired, the previous year, or the subsequent year.

Department of Commerce.

The Department of Commerce is required to adopt rules only in regards to process, timelines, and documentation to ensure the implementation of the EIA as it applies to consumer-owned utilities.

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**Summary of Bill:**

Eligible Renewable Resources.

A qualifying utility may use as an eligible renewable resource that portion of incremental electricity produced as a result of a capital investment project completed after March 31, 1999, in a qualified biomass energy facility that commenced operation before March 31, 1999. The increase in the amount of electricity generated must be relative to a baseline level of generation prior to the capital investment in the qualified biomass energy facility.

The facility must demonstrate that the incremental electricity resulted from the capital investment, which does not include expenditures on operation and maintenance in the normal course of business, through direct or calculated measurement.

Department of Commerce.

The Department of Commerce may adopt rules to develop a methodology for calculating baseline levels of generation for a qualified biomass energy facility that commenced operation before March 31, 1999.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill ensures that investments in green energy count as green energy. The bill adds some accountability measures that require the incremental electricity to come from investments other than normal maintenance.

(Opposed) This bill contradicts an agreement that was reached several years ago to allow qualified biomass energy to count as an eligible renewable resource. There was no discussion of whether or not incremental improvements would be included as part of the agreement.

**Persons Testifying:** (In support) Senator Takko, prime sponsor; and Steve Gano and Michael Roberts, Kapstone Paper.

(Opposed) Joni Bosh, Northwest Energy Coalition.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON GENERAL GOVERNMENT & INFORMATION TECHNOLOGY

**Majority Report:** Do pass. Signed by 4 members: Representatives MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Johnson and Morris.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Hudgins, Chair; Kuderer, Vice Chair; Senn.

**Staff:** Meghan Morris (786-7119).

### **Summary of Recommendation of Committee On General Government & Information Technology Compared to Recommendation of Committee On Technology & Economic Development:**

No new changes recommended.

**Appropriation:** None.

**Fiscal Note:** Requested on March 2, 2016.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

### **Staff Summary of Public Testimony:**

(In support) Senate Bill 5575 passed in 2012, authorizing the use of biomass to be used as renewable energy. At that time, the fiscal note for the Department of Commerce (Commerce) assumed expenditures of \$46,367 to write new rules from scratch. The fiscal note for this bill is probably well thought out, but it's not clear why the fiscal impact is so high this time around for fine-tuning rules of 2012.

Commerce provided assistance to ensure the bill is technically correct. This bill passed out of the Technology and Economic Development Committee with a 10 to one vote and it embodies the spirit of the voter-approved initiative allowing for green power as we move forward. Biomass is considered carbon neutral. However, some companies are not able to take advantage of selling renewable power in Washington's market. California considers similar energy green, but there are missed opportunities for green power bids in Washington. When Commerce does audits of certain facilities, they find some setups ineligible for green power in Washington, and we would like to correct that.

(Opposed) None.

**Persons Testifying:** Steve Gano, Kapstone Paper.

**Persons Signed In To Testify But Not Testifying:** None.